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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Solid Waste Management
Contact Person:	Adrianne White
Address:	William R. Snodgrass TN Tower 312 Rosa L. Parks Avenue, 14th Floor Nashville, Tennessee 37243
Phone:	(615) 532-0885
Email:	Adrianne.White@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or 615-532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Jennifer.Katzenmiller@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Multimedia Room, 3 rd Floor
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue
City:	Nashville, Tennessee
Zip:	37243
Hearing Date :	12/18/19
Hearing Time:	1:00 p.m. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Mary F. Evans at (615) 532-0798 for more information.

Current TDEC rules require 15 days of notice prior to beginning any lead-based abatement activities in Tennessee. However, federal law only currently requires five business days of notice for such abatements. TDEC has received feedback from the General Assembly and regulated industry that the current notice requirement unnecessarily slows projects and impedes efficient project management and thus effective use of federal grant funding.

Tennessee, to continue operating the lead-based paint certification and training program, must have requirements at least as protective as the respective Federal program. As such, this amendment reduces Tennessee's notice period from 15 days to five business days, adds provisions allowing for emergency abatement orders, clarifies

when updated notification is required, and provides greater guidance regarding what must be included in each notification of lead-based paint abatement. These provisions have been carefully modeled on the current federal rules regarding lead-based paint abatements to ensure that Tennessee's requirements are at least as protective as the respective Federal program without creating any additional, unnecessary burdens. New, necessary definitions are also added for clarity regarding these provisions.

An initial set of draft rules has been prepared for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

Memphis Environmental Field Office
8383 Wolfe Lake Drive
Bartlett, TN 38133
(901) 371-3000/ (901) 371-3170

Cookeville Environmental Field Office
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
1625 Hollywood Drive
Jackson, TN 38305
(731) 512-1300/1-888-891-8332

Chattanooga Environmental Field Office
1301 Riverfront Parkway
Suite 206
Chattanooga, TN 37402
(423) 634-5745/1-888-891-8332

Columbia Environmental Field Office
1421 Hampshire Pike
Columbia, TN 38401
(931) 380-3371/ 1-888-891-8332

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865) 594-6035/1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37216
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

The "DRAFT" rules may also be accessed for review using at <http://tn.gov/environment/topic/ppo-waste>.

Draft copies are also available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
William R. Snodgrass Tn Tower
312 Rosa L. Parks Avenue, 14th Floor
Nashville, Tennessee 37243
(615) 532-0780

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Tennessee Department of Environment and Conservation, Division of Solid Waste Management; Attention: Adrienne White, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue, 14th Floor, Nashville, Tennessee 37243; telephone 615-532-0885 or fax 615-532-0886. However, such written comments must be received by 4:30 PM CDT, December 18, 2019, in order to assure consideration. For further information, please contact Adrienne White at the above address or telephone number or by e-mail at Adrienne.White@tn.gov.

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-01-18	Lead-Based Paint Abatement
Rule Number	Rule Title
1200-01-18-.01	Lead-Based Paint Abatement

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1200-01-18
Lead-Based Paint Abatement

Amendments

Paragraph (4) of Rule 1200-01-18-.01 Lead-Based Paint Abatement is amended by deleting the current definition "Start date" in its entirety and substituting instead the following definition "Start date" in alphabetical order:

"Start date" means the ~~date on which activities begin on a first day of any~~ lead-based paint ~~abatement project requiring the use of certified individuals, and may include the abatement area isolation and preparation or any other activity which may disturb lead-based paint~~ activities training course or lead-based abatement activity.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq. and 4-5-201 et seq.

Paragraph (4) of Rule 1200-01-18-.01 Lead-Based Paint Abatement is amended by adding the following new definitions in alphabetical order to read as follows:

"Business day" means Monday through Friday with the exception of federal and state holidays.

"Lead-based paint activities" means inspection, risk assessment, lead hazard screen, clearance testing, lead-based paint abatement, and lead hazard reduction as defined in this rule.

"Start date provided to the Division" means the start date included in the original notification or the most recent start date provided to the Division in an updated notification.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq. and 4-5-201 et seq.

Part 4 of subparagraph (e) of paragraph (8) of Rule 1200-01-18-.01 Lead-Based Paint Abatement is amended by deleting it in its entirety and substituting instead the following:

4. ~~Notification of the Commencement of Lead-Based Paint Abatement Activities in a residential dwelling or child-occupied facility or as a result of a Federal, State or local order shall be submitted to the Division on forms provided by the Division, at least fifteen (15) days before the beginning of abatement activities. A copy of the Inspection Report described in part (b)4 of this paragraph or the Risk Assessment report described in part (d)11 of this paragraph, shall be included with the Notification sent to the Division. Notification: A certified firm must notify the Division of lead-based paint abatement activities as follows:~~
 - (i) Except as provided in subpart (ii) of this part, the Division must be notified prior to conducting lead-based paint abatement activities. The original notification must be received by the Division at least five business days before the start date of any lead-based paint abatement activities.
 - (ii) Notification for lead-based paint abatement activities required in response to an elevated blood lead level (EBL) determination, or Federal, State, Tribal, or local emergency abatement order, should be received by the Division as early as possible before, but must be received no later than, the start date of the lead-based paint abatement activities. Should the start date and/or location provided to the Division change, an updated notification must be received by the Division on or before the start date provided to the Division. Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.
 - (iii) Except as provided in subpart (ii) of this part, updated notification must be

provided to the Division for lead-based paint abatement activities that will begin on a date other than the start date specified in the original notification as follows:

- (I) For lead-based paint abatement activities beginning prior to the start date provided to the Division an updated notification must be received by the Division at least five business days before the new start date included in the notification.
- (II) For lead-based paint abatement activities beginning after the start date provided to the Division an updated notification must be received by the Division on or before the start date provided to the Division.
- (iv) Except as provided in subpart (ii) of this part, updated notification must be provided to the Division for any change in location of lead-based paint abatement activities at least five business days prior to the start date provided to the Division.
- (v) Updated notification must be provided to the Division when lead-based paint abatement activities are canceled, or when there are significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by the Division on or before the start date provided to the Division, or if work has already begun, within 24 hours of the change.
- (vi) The following must be included in each notification:
 - (I) Notification type (original, updated, cancellation).
 - (II) Date when lead-based paint abatement activities will start.
 - (III) Date when lead-based paint abatement activities will end (approximation using best professional judgement).
 - (IV) Firm's name, Division certification number, address, and telephone number.
 - (V) Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.
 - (VI) Property name (if applicable).
 - (VII) Property address including apartment or unit number(s) (if applicable) for abatement work.
 - (VIII) If using the abbreviated time period as described in subpart (ii) of this part, documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order.
 - (IX) Name and Division certification number of the project supervisor.
 - (X) Approximate square footage or acreage to be abated.
 - (XI) Brief description of abatement activities to be performed.
 - (XII) Name, title, and signature of the representative of the certified firm who prepared the notification.
- (vii) Notification must be made by written notification or electronically by such means approved by the Commissioner. Written notification can be accomplished using the Division form titled "Lead-Based Paint Activity Notification", or a successor to that form approved by the Division. All written notification must be delivered by

U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the Division receives the notification by the required date).

(viii) In the event of changes to the original notification, lead-based paint abatement activities shall not begin on a date or at location other than that specified in either an original or updated notification.

(ix) No firm or individual shall engage in lead-based paint abatement activities prior to notifying the Division of such activities according to the requirements of this part.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq. and 4-5-201 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: October 24, 2019

Signature: _____

Name of Officer: Patrick J. Flood, P.E.

Title of Officer: Director of the Division of Solid Waste Management

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State